IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Writ Petition No.1117 of 2007

Rupa wd/o. Narsingh Modi Petitioner

Vs.

State of Maharashtra & anr. Respondents

Mr.A.Majeed Memon for petitioner.
Mr.D.R.More, APP for State.

CORAM: B.H.MARLAPALLE, J.

July 19, 2007.

P.C.

. Heard Mr.Memon, the learned counsel for the petitioner - the original complainant. Mr.More, the learned APP appears for the State of Maharashtra.

. An application was made to the Sessions Court at Thane by the Senior Inspector, Crime Branch, Thane (Rural) for custody of the respondent no.2 Shri Jagdishsingh Chandrasingh Nepali for brain mapping and narco analysis test. The said application came to be rejected by the learned Ad-hoc Addl. Sessions Judge, Thane on 27/4/2007 and mainly on the ground that the Sessions case was not received and the Court was not aware whether the supplementary charge-sheet was filed. The Court also noted that the learned Judicial Magistrate, First Class at Bhiwandi by his

order dated 8/2/2007 had granted permission for brain mapping and narco analysis test and it appeared that the same was not administered.

. It is now informed by Mr.More, the learned APP on taking instructions from Mr.J.B.Vankoti, PSI, Thane (Rural) who is present in the Court, that so far as the respondent no.2 is concerned, supplementary charge-sheet came to be filed on 5/4/2007 and the learned Magistrate passed the committal order on 17/4/2007 which was received by the Sessions Court on 24/4/2007.

. Mr.More further states on instructions that the State would move a fresh application seeking permission to take the respondent no.2 for brain mapping and narco analysis test of the added accused - present respondent no.2 - Shri Nepali, within one week from today. Undoubtedly the said application will have to be considered on the basis that the Sessions case has been received by the Sessions Court for trial and there is no dispute that the main case is listed as Sessions Case No.63 of 2007 and after the present respondent no.2 was implicated as additional accused and charge-sheet was filed against

him on 5/4/2007, the case is registered as Supplementary Sessions Case No.168 of 2007. Mr.Memon also pointed out that the present respondent no.2 has submitted an application for being released on bail before the Sessions Court and the same is likely to be taken up for hearing and orders at any time.

. It is, therefore, directed that if the State moves an application for permission to implement the original order dated 8/2/2007, the bail application submitted by the respondent no.2 and presently pending before the Sessions Court shall not be heard and decided unless the application filed by the State Government for seeking permission to take the respondent no.2 for tests is decided.

. The petition is disposed off in terms of the above directions.

. Writ to go forthwith to the Sessions Court.

(B.H.MARL